## J. PLANNED UNIT DEVELOPMENT DISTRICT

## 1. Purpose and Intent

The purpose and intent of a Planned Unit Development (**PUD**) District is to allow by special permit from the Planning Board an alternative use and pattern of land development for large tracts of land zoned for manufacturing, light manufacturing or business, by allowing single-family and multi-family clustered residential development and other uses as permitted in this Section while encouraging the conservation of significant open space in the district and providing affordable housing opportunity, all in conformance with the provisions of M.G.L. Chapter 40A, Section 9. The PUD is a flexible zoning tool designed to meet the following public objectives:

- a. to preserve significant areas of open space in perpetuity;
- b. to encourage housing and land development which is harmonious with natural features and the environment;
- c. to encourage a variety of housing types, sizes, characteristics, and price ranges;
- d. to provide affordable housing to meet the housing needs of persons of low and moderate income;
- e. to allow a limited neighborhood commercial area for the convenience of residents within the PUD District;
- **f.** to provide recreational facilities within the District;
- **g.** to promote more efficient uses of land and to preserve and protect natural resources such as wetland areas, woodlands, fields, natural habitats, significant vegetation, water bodies, and water supplies; and,
- **h.** to preserve sites and structures of historical importance.

In the PUD, dwelling units should be constructed in appropriate clusters which are harmonious with neighborhood development and will not detract from the ecological and visual qualities of the environment. The overall site design and amenities should enhance the quality of living for the residents of the development and the town generally. Attention shall be given by the Planning Board as to whether the proposed site design, development layout, number, type and design of housing constitutes a suitable development for the neighborhood within which it is to be located.

## 2. Applicability

The Planned Unit Development District is an overlay district that may be superimposed upon a parcel or contiguous parcels of land having an area of at least fifty (50) acres and located within a "M" Manufacturing, "B" Business, or "M-1" Light Manufacturing, district by a vote of at least two-thirds of an annual or special town meeting. The area to be included within the PUD District may include strips of land not to exceed one-hundred (100) feet in width through any zoning district solely for the purpose of providing access to the parcel from public streets. Any roadway within said access strip shall include suitable plantings or materials to provide a visual buffer between the road and adjacent uses. In the event Town Meeting votes to place such a parcel of land in an overlay PUD District, the applicant thereof may file an application for a special permit with the special permit granting authority in accordance with the requirements of Section III.J.9. of this By-Law. The application for a PUD Special Permit shall include the entire parcel or parcels placed into the PUD District by vote of Town Meeting. The Special Permit Granting Authority shall not accept applications for a special permit under this Section which do not include the entire parcel or parcels of land designated as a PUD District. In the event a PUD Special Permit is issued pursuant to this Section and the rights granted pursuant thereto are exercised by the owner/applicant, no land included within said district may be removed from the provisions of this Section and used in accordance with the underlying zoning district.

#### 3. Definitions

#### a. Terms Defined

For the purpose of this PUD by-law, the following terms shall have the meanings given in the following clauses:

Affordable Housing Unit: A housing unit offered for either sale or rental at such terms, conditions and restrictions so as to be qualified as affordable to persons or families of low or moderate income by the Executive Office of Communities and Development of the Commonwealth of Massachusetts (EOCD). Said units shall be offered for sale or rental by or through one or more of the following: a program administered by the EOCD; the Framingham Housing Authority; a non-profit land trust or limited dividend entity; each such affordable housing unit shall be governed by adequate and enforceable deed restrictions or other agreements acceptable to the Planning Board ensuring the continuing affordability of the unit. Affordable housing units shall be compatible with and nearly indistinguishable from the exterior appearance of the market-rate units in the PUD district and should be located throughout the PUD district.

**Applicant:** The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The applicant must own, or be the beneficial owner of, all the land included in the planned development site proposed, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site within a period of sixty days from the time that the applicant shall notify the owner(s).

Congregate Housing: Housing units designed for elderly occupants in a facility which permits persons who do not require constant supervision or intensive health care as provided by an institution, to maintain a semi-independent lifestyle while providing services such as common dining facilities, a nursing staff, and other services and amenities as needed. Each such housing unit may provide one or more bedrooms and may have a separate living room, kitchen, dining area and bathroom. The total number of congregate housing units within the PUD District shall not exceed twenty-five percent of the total allowable housing units within the PUD District.

**Developable Land**: All land located within the PUD District exclusive of wetlands as said terms is defined in the Wetlands Protection Act (Chapter 131, Section 40 of Massachusetts General Laws).

**Floor Area Ratio:** As used in this Section, the floor area ratio is the ratio of the gross floor area of all buildings within the PUD District to the area of developable land within the PUD District provided, however, that the gross floor area of garages, attics and basements which are not designed to be used or occupied as living areas shall be excluded.

**Housing Unit:** A room, group of rooms, or dwelling forming a habitable unit for one family with facilities for living, sleeping, cooking and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit.

**Long Term Health Care Center:** A nursing home or similar geriatric health care facility accessory to and operated in conjunction with congregate housing for the elderly within the PUD District. The number of beds contained within said facility shall not exceed twenty-five percent of the total number of congregate housing units within the PUD District.

**Neighborhood Commercial Uses:** Commercial uses intended for the primary use and convenience of the residents within the PUD District, including retail sales and services (except automotive sales or services which are not permitted); restaurants (except drive-through or take-out window service which is not permitted); branch banks and financial services; business and professional offices; personal services and day-care centers.

#### **b.** Terms Not Defined

Any terms not defined in this Section but defined elsewhere in the By-Law or in the State Building Code or in Massachusetts General Laws shall have the meanings given therein to the extent the same are not inconsistent with this Section.

### 4. Basic Requirements

- a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use or improvement in a PUD District unless an application for a special permit has been prepared for the proposed development in accordance with the requirements of this Section, and unless such special permit has been approved by the Special Granting Authority (SPGA). The SPGA for a special permit granted under this Section shall be the Planning Board.
- **b** No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development or any phase thereof and any associated off-site improvements conform to the approved application for a special permit under this Section including any conditions imposed by the Planning Board. No temporary occupancy permits shall be granted under this PUD by-law.
- **c.** If a PUD special permit is not applied for within 3 years of the Town Meeting vote to create a PUD overlay zone for a parcel of land, such land shall, after said three years, not be eligible for a PUD special permit. Town Meeting may, by two-thirds vote, extend this time limit.

#### 5. Permitted Uses

No building or structure shall be constructed, used or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

- a. Single-family detached and attached residences, multifamily residential buildings and congregate housing for the elderly, including a long term health care facility associated therewith. Not less than ten percent (10%) of all such housing units, including units for both sale and rental, shall qualify as affordable housing as said term is defined in Section III.J.3. of this By-Law. Each phase of the development shall have approximately ten percent (10%) of its units qualify as affordable, and said affordable units shall be dispersed throughout the development and in various housing types. Not more than twenty percent of the housing units within the PUD District, exclusive of any congregate housing units for the elderly and affordable housing units, shall be rental units. The remainder of the units shall be owner-occupied.
- **b.** Neighborhood commercial uses intended for the primary use and convenience of the residents within the PUD District as defined in Section III.J.3. of this By-Law. As a general rule, no such establishment shall occupy more than 2,500 square feet and shall be subject to reasonable restrictions and conditions relating to size and hours of operation imposed by the Planning Board. The Planning Board may refuse to authorize a commercial use which in its judgment is inappropriate for location within the PUD District. The Planning Board may permit larger neighborhood commercial establishments, up to a limit of 4,000 square feet, based on a clear demonstration by the applicant and a finding by the Planning Board that such larger size meets the needs of the residents in the PUD District.
- **c.** Recreational facilities intended for the primary use and convenience of the residents thereof, such as swimming pools, exercise facilities, tennis courts and athletic fields (but not including driving ranges, miniature golf, or commercial amusement parks which are not permitted).

## 6. Dimensional and Area Regulations

#### a. Applicability

The dimensional and area regulations set forth in this Section shall apply to the total area of developable land within the PUD District and shall not regulate individual lots therein.

### b. Maximum Allowable Density

The total number of residential housing units shall not exceed seven (7) per acre of developable land within the PUD District. For purposes of this density calculation, every two bedrooms within a congregate housing facility as defined in Section III.J.3. shall be counted as one residential housing unit. Notwithstanding the aforesaid density limitations, the Planning Board may reduce the maximum allowable density within a PUD District; provided, however, that any such reduction be limited to that which is reasonably necessary to satisfy the objectives of a PUD District as defined in Planning Board may also take into consideration the density of development on land surrounding the PUD District and the presence, or lack thereof, of undevelopable land and open space contained within and abutting the PUD District.

# c. Floor Area Ratio Requirement

The ratio of the gross floor area of all buildings, residential and commercial, within the PUD District, to the total area of developable land within the District shall not exceed 32% (0.32).

### d. Ground Coverage Requirement

- (1) The ground coverage of all residential and commercial buildings and parking lots and impervious landscaping within the PUD District shall not exceed 40% of the total area of developable land within the District. The ground coverage of all roadway areas and associated sidewalks shall be excluded from this requirement.
- (2) The ground coverage of all land and buildings used for commercial purposes, including associated parking lots, loading areas and impervious landscaping within the PUD District shall not exceed 2% of the developable land area of the District.

### e. Setback Requirements

Setbacks within PUD Districts shall conform to the following requirements; provided, however, that the Planning Board may reduce the setback requirements or may require greater setbacks to provide additional buffers to residences abutting the PUD District or to enhance the aesthetic appearance or planning objectives of this project.

### (1) Setbacks Abutting Other Districts

All structures within a PUD District shall have a minimum setback requirement of 50 feet from the PUD District boundary line.

#### (2) Front Setback Requirements

All structures within a PUD District shall have a minimum setback from any front lot line or any street line of 30 feet.

## (3) Separation of Buildings

All buildings within the PUD District shall have a setback of at least 30 feet from any other building therein. The required setback for any building which exceeds forty feet in height shall equal to the height of that building.

### f. Maximum Height Requirement

The maximum height of any building in a PUD District shall not exceed three (3) stories or forty (40 ft.) feet except for accessory structures or appurtenances normally built above the roof level and necessary for the operation of the building or use. Such structures shall not be intended for human occupancy and shall be erected only to serve the purpose for which they are intended. Except for chimneys and penthouses for stairways and mechanical installations, no such accessory structure or appurtenance shall exceed a height of 40 feet from the average grade.

## g. Solar Orientation of Buildings

Spacing of buildings and landscaping, wherever possible and practical, shall be oriented to optimize solar exposure for buildings within the PUD District.

### 7. Open Land Requirements

#### a. Basic Requirement

Open space shall be provided in a PUD District in accordance with the requirements of this section.

### b. Public Open Space

Significant areas of land within the PUD District which are not developable and are classified as wetlands in accordance with the Massachusetts Wetlands Protection Act (M.G.L. Ch.131 Section 40) and the Regulations of the D.E.Q.E. promulgated thereunder, including the wildlife protection regulations, shall be designated as "Public Open Space". Said areas shall be preserved as open space in perpetuity and either conveyed to the Conservation Commission of the Town of Framingham, or to a non-profit organization whose principal purpose is the conservation of open space, or shall be protected by means of a conservation restriction imposed on the land pursuant to M.G.L. Chapter 184, Section 31.

#### c. Common Open Space

A minimum of 25% of the total developable land within the PUD District, exclusive of land set aside for streets within the district, shall be designated "Common Open Space". Common Open Space shall include all developable land not dedicated to roads, parking areas, buildings and structures. At least 50% of the required common open space shall be suitable for passive or active recreational use by residents of the PUD District. Common Open Space may be used for recreational facilities, as delineated in Section III.J.4.(c); and for passive open space and buffer areas. Common open space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by residents of the PUD district; and, where possible, be located such that significant areas of continuous open space are distributed throughout the PUD District. There shall also be significant areas of common open space near areas containing high concentrations of housing units.

The approximate location of major areas of Public Open Space and Common Open Space shall be identified as part of the Preliminary Development Plan. The granting of a special permit for this plan shall include as a condition that the large areas of open space identified on the Preliminary Development Plan be preserved approximately as shown, with

the understanding that the precise definition of such open space might be altered with the submittal and approval of Definitive Development Plans.

### d. Ownership of Common Open Space, Restrictions Thereon

The required open land shall be conveyed to a non-profit corporation or trust comprising a condominium or homeowner's association. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Middlesex South District Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

- (1) mandatory membership in an established association, as a requirement of ownership of any condominium unit, rental unit, building or lot in the tract.
- (2) provisions for maintenance, assessments of the owners of all condominium units, rental units, buildings or lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the home's association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by the association.
- (3) provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law.
- (4) provisions for limited easements to significant areas of open space and natural resources for recreational use by residents of the Town, and to provide linkages to open space of abutting properties.

The developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the association is capable of assuming said responsibility.

## 8. Design Standards, Off-Street Parking and Loading Requirements

### a. Basic Requirements

The Project shall be designed and constructed in accordance with the Design Standards and Specifications set forth in Section VII of the "RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM".

#### b. Off-Street Parking

Off-street parking facilities for structures and uses within a PUD District shall conform to all regulations and design standards set forth in Section IV.B. of the Zoning By-Law. In addition to the setback and landscaping requirements set forth in Section IV.B., the Planning Board may require that any parking lot which contains more than 12 parking spaces be suitably screened by a landscaped area with trees which are of a type that may be expected to form a permanent screen.

## c. Off-Street Loading

Off-street loading facilities for structures and uses within a PUD District shall conform to all regulations and design standards set forth in Section IV.C. of the Zoning By-Law.

#### d. Garages

The construction of individual garages attached to or within housing units is encouraged where feasible, taking into consideration the topography, layout, type, architectural design and price of the unit.

## 9. Special Permit Applications and Review Procedure

**a.** It is the intent of this section to allow for phased construction of buildings and improvements within a Planned Unit Development district over a period of years, and to permit the phased submittal of certain plans and information. The Special Permit application, review and approval process provides for filing of a "Preliminary Development Plans" followed by one or more "Definitive Development Plans" together with the reports and information required by Section III.J.9.

- **b.** The Applicant shall submit to the Planning Board a letter of intent to apply for a Special Permit for a Planned Unit Development. The Planning Board shall set up a Pre-Application Conference with department heads within the Town, including representatives of the Planning Board, Planning Department, Engineering Department, Department of Public Works, Police Department, Fire Department, Parks and Recreation, Building Department, Conservation Commission and Board of Health. The Pre-application Conference allows the Applicant the opportunity to present to town officials a description of the proposed project with a sketch plan of the entire tract, and to receive comments regarding important areas of concern to be addressed in the planning process for the development.
- c. The Applicant shall file with the Planning Board ten copies of the Application for a PUD Special Permit, a Preliminary Development Plan and, at the option of the applicant, one or more Definitive Development Plans for the initial phases of the development, conforming to the requirements of Section III.J.10. The Application shall be accompanied by the required filing fee as established by the Planning Board. One copy of the application shall be filed simultaneously with the Town Clerk. The Planning Board shall immediately review the applications for completeness and shall, within 14 days, notify the applicant if it finds the application to be incomplete. Failure of the applicant to complete the application within 14 days of Planning Board notice will result in disapproval of the special permit without prejudice.
- **d.** Upon receiving a completed application as set forth above, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Engineering Department, the Planning Department, the Police Department, the Fire Department, the Board of Public Works, the Board of Health and such other departments and boards at the Planning Board may determine appropriate.
- e. Such agencies shall, within 35 days of receiving said copy, report to the Planning Board on (1) the adequacy of the data and the methodology used by the applicant to determine the impacts of the proposed development and (2) the effects of the projected impacts of the proposed development. Said agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such agency to report within the allotted time shall constitute approval by the agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will cause no adverse impact. If reasonably necessary to properly evaluate the proposal, the Planning Board may require additional reports or studies to be performed by an outside consultant and to be paid for by the applicant. If necessary, the Planning Board shall request the written consent of the applicant to extend the time allowed to hold a public hearing or take action on the application.
- **f.** The Planning Board shall not render a decision on said application until it has received and considered all reports requested from town departments and boards, or until the 35-day period has expired, whichever is earlier. Where circumstances are such that the 35-day period is insufficient to conduct an adequate review, the Planning Board may, at the written request of the applicant, extend such period.
- g. The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing of a complete application, shall properly serve notice of such hearing, and shall render its decision within 90 days of the close of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L.c.40A, Sections 9 and 11, and with the requirements of Section V.J. of this By-Law. All costs of the notice requirements shall be at the expense of the applicant.
- h. Within 30 days after receiving a letter of intent to apply for a special permit for a Planned Unit Development, the Planning Board shall appoint an ad hoc Design Review Committee after consideration of recommendations for membership from the Planning Director. The Committee shall consist of seven residents of the town and whenever possible shall be composed as follows: (1) two residents of the general area surrounding the proposed PUD, (2) a land use planner or similar consultant, (3) an architect or similar consultant, (4) a landscape architect or similar consultant, (5) a civil engineer or similar consultant, and (6) a town meeting member from the precinct in which the land is located. No committee member may have a financial interest of any kind in the PUD. At the direction of the Planning Board, the committee shall meet with the Applicant and the Applicant's consultants to discuss and review the land planning and architectural features of the proposed development, including site layout, roadway system, location and design of recreational areas and open space, architectural design and groupings of buildings. During the special permit process, the committee shall make recommendations and/or comments to the Planning Board. The Planning Board shall adopt rules and regulations governing the selection process of committee members and its function in the hearing and review process in accordance with this Section.

- i. In reviewing the impacts of a proposed Planned Unit Development, the Planning Board shall consider the information presented in the Application for a PUD Special Permit, including all items specified in Section III.J.10., all reports of Town departments submitted to the Planning Board pursuant to Section III.J.8.(d); reports, comments or recommendations of the ad hoc Design Review Committee, and any additional information available to the Planning Board, submitted to the Planning Board by any person, official or agency, or acquired by the Planning Board on its own initiative or research.
- **j.** The Planning Board shall grant the special permit only if it finds that the application satisfies the objectives of a PUD as defined in Section III.J.1., and only if it can make the specific findings required by Section IV.I.7. of the Zoning By-Law.
- **k.** A PUD Special Permit granted pursuant to this Section shall establish and regulate the following as conditions for approval:
  - (1) location of all primary streets and ways within the development, including access to existing public ways, with the layout, design, construction and other relevant standards for such streets and ways to conform to the Rules and Regulations Governing the Subdivision of Land in the Town of Framingham;
  - (2) locations of significant areas of public open space and common open space;
  - (3) boundaries of lots to be created within the development, if any;
  - (4) overall project density, including the distribution of housing units to avoid undue concentration of development, as well as maximum number of housing units that may be built within the development, including maximum number of building permits that may be issued within any twelve month period;
  - (5) location and boundaries of each development phase;
  - (6) location of commercial establishments;
  - (7) development timetable;
  - (8) off-site traffic improvements and environmental mitigation measures, if any to be performed by the Applicant, including timetables and procedures for implementation of the same;
  - (9) requirements for instruments to be executed by the owners of the land and recorded with the Registry of Deeds waiving all rights to previously issued permits and approvals for commercial or industrial buildings and uses for the land, if any, and to future uses of the land which would be otherwise permitted by the zoning district in which it is located, except as specifically allowed by this PUD By-Law;
- (10) such other terms, conditions or restrictions as the Planning Board may deem appropriate.

# 10. Contents and Scope of Application

An application for a PUD Special Permit under this section shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect and a Registered Landscape Architect, and shall include the following items and information:

## a. Pre-application Conference Submittal

The following materials are to be provided for the Pre-Application Conference by the Applicant. An approximately scaled sketch plan of the entire tract which shows in schematic detail the location of proposed uses and major buildings, proposed development density, housing types, layout of roads by function, location of entrances, and layout of common and public open spaces. The sketch should be accompanied by a brief narrative that describes general design and architectural policies for the PUD, location and treatment of environmentally sensitive land located in the project tract, and the proposed time frame for phased development.

### b. Preliminary Development Plan

- (1) A legal description of the land, including ownership.
- (2) A narrative of the project, including a statement of planning objectives, size of the parcel, number of residential units proposed, proposed coverage and densities, amount of non-residential construction proposed, recreational

facilities planned for the development, construction schedule and a description of how the project satisfies the objectives of the PUD by-law set out in Section J.1.

- (3) A plan to be entitled "Preliminary Site Plan of Planned Unit Development for (identity of project)" prepared at a scale of one inch equals forty feet (1"=40") or such other scale as may be approved by the Planning Board containing the following information: site boundaries and names of all abutters, site area, location of all primary streets and ways within the site, including access points to existing public ways, the proposed system of drainage, including adjacent existing natural waterbodies, location of significant natural features and vegetation of the site, including wetland areas, water bodies and floodplain areas, boundary lines of existing and any proposed lots within the site, designation of each proposed phase of development, location of major recreational areas and open space, location of amenities such as swimming pools and tennis courts, and setting forth the total number of residential units to be constructed within the development.
- (4) A locus plan at a scale of one inch equals 100 feet (1"=100'), showing the entire development and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board.
- (5) A Development Impact Statement prepared in accordance with the requirements of Section IV.I.5.(f) (Site Plan Review) of this Zoning By-Law, to be evaluated in accordance with the "Development Impact Standards" of Section IV.I.6. of said By-Law, and subject to the requirements and conditions of Sections IV.I.7. and IV.I.8. of said By-Law.

### c. Definitive Development Plan

Each phase or sub-phase of a Planned Unit Development shall require the filing and approval by the Planning Board of a Definitive Development Plan prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect and a Registered Landscape Architect, and shall include the following items and information:

- (1) A site plan at a scale of one inch equals forty feet (1"=40'), or such other scale as may be approved by the Planning Board, containing all items and information normally required to be included in an Off-Street Parking Plan under Section IV.B.7.(d) of this By-Law, except for items 2 and 11 thereof, and also indicating water service, sewer, waste disposal, and other public utilities on and adjacent to the site. For convenience and clarity, this information may be shown on one or more separate drawings.
- (2) A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.
- (3) An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries.
- (4) Building elevation plans at a scale of one-sixteenth inch equals one foot (1/16"=1'-0") or one-eighth inch equals one foot (1/8"=1'-0"), showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.
- (5) Condominium documents and/or other instruments to be reviewed and approved by Town Counsel and which
  - (a) adequately provide for and ensure the preservation and maintenance of public and common open space within each phase or sub-phase shown on the aforesaid site plans and
  - (b) provide that no more than twenty percent of the housing units, exclusive of any congregate housing units for the elderly and affordable housing units, shall be rental units and that the remainder shall be owner-occupied.

## 11. Relation to Subdivision Control Law

In the event the Applicant seeks subdivision approval for streets and lots within the PUD District pursuant to the Subdivision Control Law M.G.L. Chapter 41, Section 81), the Applicant shall file an "Application for Approval of Definitive Plan" pursuant to the RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN THE TOWN OF FRAMINGHAM. In order to facilitate processing the Planning Board shall consider said application simultaneously with the application for a PUD Special Permit, and may adopt regulations establishing procedures for the simultaneous submission

and consideration of the applications; provided, however, that nothing contained herein shall be deemed to require approval of streets and ways within a PUD District under the Subdivision Control Law. Any subdivision of land within the PUD District shall in no way diminish the effect of any conditions, agreements or covenants imposed or made as part of the grant of a PUD special permit.

## 12. Administration

- **a.** The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this Section, including additional regulations relating to the scope and format of reports required hereunder.
- **b.** The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this Section. No application shall be considered complete unless accompanied by the required fees.
- **c.** The Planning Board shall be responsible for deciding the meaning or intent of any provision of this Section which may be unclear or in dispute.
- **d.** Any person aggrieved by a decision of the Planning Board with regard to a PUD Special Permit shall have the rights of appeal set forth in M.G.L. Ch.40A, Section 17.

## 13. Separability

The invalidity of one or more provisions or clauses of this Section III.J. shall not invalidate or impair the Section as a whole or any other part hereof.

## K. GERIATRIC CARE/ELDERLY HOUSING DISTRICT

## 1. Purpose and Intent

The purpose and intent of a Geriatric Care/Elderly Housing District is to encourage the development of a continuum of geriatric care facilities, including housing and community services for the elderly, with a design compatible with the surrounding neighborhood and internally cohesive.

## 2. Applicability

The Geriatric Care/Elderly Housing District may be applied only to single or contiguous lots containing a total of at least 20 acres of land. No individual use (including each subcomponent of Permitted Uses) shall consist of more than fifty percent (50%) of the potential floor area allowed in the District. Individual lots in the District may be developed for one or more buildings.

### 3. Permitted Uses.

No building or structure shall be constructed, used, or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

- **a.** Housing for the elderly, including Independent Living Housing, Congregate Living Housing, Assisted Living Housing and nursing homes, and related facilities, provided that at least one occupant of each housing unit shall have attained the age of 55 and any other occupants of each housing unit shall have attained the age of 50.
- **b.** Health care facilities and services for the elderly, including Nursing Care Facilities, Geriatric Hospital Facilities, Hospice Facilities, and rehabilitation centers and programs, home health services and medical offices.
- **c.** Community and social services primarily for the elderly, day care centers for children or the elderly, places of worship, transportation services, meals on wheels and related eldercare services.
- d. Gardens and Greenhouses.
- **e.** Cultural and Educational Centers for cultural and educational programs, events and performances. Only one such facility available for use by the general public shall be permitted within a district. The total combined indoor and outdoor seating capacity of such facility shall not exceed 200 seats. Additional rooms, designed for educational or cultural programs for the residents and staff of the district, shall be permitted.
- **f.** Health club facilities and recreation facilities, intended for the primary use and convenience of the residents and staff of the Geriatric Care/Elderly Housing District and elderly residents, age 55 and older, of the Town of Framingham, such as swimming pools, exercise facilities and tennis courts.
- **g.** Passive Recreation Buffer Areas for the installation, repair and maintenance of footpaths and trails; underground utilities; and public access and drainage easements.
- **h.** Outdoor recreational facility, as defined in Section I.E.1.
- **i.** Accessory Uses: Retail sales and services including restaurants, snack bars, gift shops, laundry services, barber/beautician, banking and financial services, businesses and professional offices, and personal services not specifically noted elsewhere in this Section, subject to the following conditions:
  - (1) Accessory Uses shall be primarily for the use and convenience of the elderly residents living, and service staff working within the Geriatric Care/Elderly Housing District;
  - (2) Accessory Uses may not exceed five (5%) of the total floor area of all permitted uses that may be built in the Geriatric Care/Elderly Housing District;
  - (3) No Accessory Use, other than a restaurant, may occupy more than 1,000 square feet;

- (4) Capacity of a restaurant shall not exceed 60 seats;
- (5) Accessory Uses shall be wholly within a building and shall have no exterior advertising display.
- **4.** The following uses shall require a special permit from the Zoning Board of Appeals:
  - **a.** Indoor non-profit recreational facilities such as swimming pools, tennis court, skating rink, or children's camp or center.

## L. TECHNOLOGY PARK DISTRICT

## 1. Purpose and Intent

The purpose and intent of these Technology Park District regulations is to promote technological and light industrial development so as to enhance employment and economic vitality by allowing a certain mix of land uses at a higher density, without a corresponding increase in traffic, than is otherwise permitted in other zoning districts. In addition, these provisions are intended to ensure that the technology park is served by a sufficient vehicular circulation network and infrastructure to meet the particular demands of the facilities within the park without a corresponding impact on services in surrounding residential neighborhoods and commercial areas in proximity to the park.

## 2. Applicability

- **a.** The zoning classification of an area of land may be changed to a Technology Park District by vote of at least two-thirds of an annual or special town meeting provided said land complies with all of the following requirements:
  - 1) Total land area shall not be less than one-hundred fifty (150) acres.
  - 2) The land shall be located within an existing Light Manufacturing ("M-1") or General Manufacturing ("M") zoning district.
  - 3) The land shall have direct vehicular access onto a divided multi-lane state highway by means of an existing public way or existing curb cut.
- **b.** These regulations shall apply to all new construction as well as all proposals for development within the Technology Park District which must seek a Special Permit from the Planning Board for Off-Street Parking or Site Plan Review.

## 3. Permitted Uses

No building or structure shall be used, constructed or designed to be used in any part, and no change shall be made in the use of land or premises, except for one or more of the following purposes:

- **a.** Research and development, including biotechnology; processing, assembly and manufacturing, provided the use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features:
- **b.** Printing;
- c. Delivery services;
- d. Storage and distribution facilities;
- e. Business and professional offices;
- f. Educational training facilities and conference centers accessory to a permitted use;
- **g.** Day care facilities.

## 4. Special Permit for Uses

The following uses shall require a Special Permit from the Planning Board:

- **a.** Non-automotive commercial uses and services intended for the primary use and convenience of the employees of the Technology Park District such as restaurants, branch banks, financial services, personal services and dry cleaners, provided the same do not occupy more than two thousand five hundred (**2,500**) square feet each;
- **b.** Centers for the performing arts.
- **c.** Retail outlets, accessory to a use permitted by this section, having a gross floor area no greater than two thousand five hundred (2,500) square feet;

## 5. Floor Area Ratio Requirements in a Technology Park District

#### a. Table of Floor Area Ratios

The ratio of the gross floor area of any building or group of buildings on a lot, including accessory buildings but excluding parking garages or structures, to the area of the lot (Floor Area Ratio (FAR)) shall not exceed the Base FAR as specified in the following Table of Floor Area Ratios, except as provided in III.L.5.b. Special Permit for an Increase in FAR.

PRINCIPAL USE	BASE FAR	Max. FAR
Retail, Commercial	0.25	0.32
Business and professional offices, educational training facilities, conference centers and centers for the performing arts	0.4	0.6
Research and development, processing, assembly, manufacturing, printing, laboratory and associated offices	0.8	1.0
Storage and distribution facilities	0.8	1.0

### **b.** Special Permit for an Increase in FAR

- 1) The Planning Board may grant, by Special Permit, an increase in the "Base FAR" up to the maximum FAR as specified in the Table of Floor Area Ratios, Section III.L.5.a., above, for parcels located in the Technology Park District, if all of the following conditions are met:
  - a) The increase in FAR will achieve the goals, intent and objectives of these Technology Park District Regulations.
  - b) The increased development complies with the Development Impact Standards set forth in Section IV.I.6. of the Zoning By-Law.
  - c) The applicant agrees to develop a transportation demand management plan and actively participate in a transportation demand management program to reduce the number of peak hour vehicle trips. TDM programs shall include, but are not limited to, membership or contribution to a transportation management organization, carpooling program, public transportation voucher program, public transit system, bicycle trail and lane, pedestrian way, or shuttle service.

The Planning Board shall make written findings prior to approving or disapproving any application for Special Permit for an Increase in FAR.

### 2) Conditions Limitations and Safeguards

In granting approval of a Special Permit for an increase in density, the Planning Board may attach such conditions, limitations and safeguards as are deemed reasonably necessary to promote the purpose and intent of these Technology Park District regulations. Such conditions shall be in writing and shall be part of such approval. Such conditions may include, but not be limited to, the following:

- a) The conditions, limitations and safeguards stated in Section IV.I.8. a. through f.
- b) In lieu of specific traffic mitigation, the applicant may at the request of the Planning Board, deposit with the Town, a sum of money equivalent to the requirements of Section IV.I.6.a. of the Zoning By-Law to be used for construction of roadway or other infrastructure improvements.

# 6. Special Regulations for Technology Park District

#### **a.** Participation in TDM:

All proposals for development within the Technology Park District which must seek a Special Permit from the Planning Board for Off-Street Parking or Site Plan Review, shall, at a minimum, be accompanied by a transportation demand management plan and evidence of active participation in a transportation demand management program.

#### **b.** Off-Street Parking Requirements:

The Base Parking Requirement for Research and Development, Processing, Assembly and Manufacturing, Printing, and Laboratory and for Associated Offices that the Planning Board finds are related and ancillary to these uses shall be 1

space per 800 square feet of gross floor area or 1 space per employee, whichever is greater. Additional parking requirements for the square footage above the Base FAR and up to the Maximum FAR shall be additive to the Base Parking Requirement and shall be calculated at 50 percent of the Base Parking Requirement.

## 7. Landscaped Open Space Requirements in the District

- **a.** Minimum Landscaped Open Space in the Technology Park District shall be 25 percent (LSR=0.25) for all uses within the district, except Research and Development, Processing, Assembly and Manufacturing, Printing, and Storage and Distribution Facilities which shall have a minimum Landscaped Open Space of 20 percent (LSR = 0.20).
- **b.** Landscaping within the Technology Park District shall be provided substantially in accordance with the goals and objectives of **Section IV.K.8.** of this By-Law with the following exceptions:
  - 1) Landscaped buffer strips along any public street shall be a minimum of 30' wide. The Board may reduce the buffer to 15' along the public way provided that the Applicant replicates the open space elsewhere on the site in the form of courtyard areas or other types of usable open space, as approved by the Board.
  - 2) Sub-section h. "Landscaping Within off-Street Parking Areas" shall not apply. However, the parking areas shall, whenever feasible, be designed with landscaping which breaks up large expanses of asphalt with divider or terminal islands.
  - 3) Sub-section i. "Landscaping Adjacent to Buildings" shall only apply to office, education and training facilities, conference centers, centers for performing arts and retail facilities that may be constructed within the Park.

## M. ADULT USES DISTRICTS

# 1. Purpose and Intent

This bylaw is enacted pursuant to MGL Chapter 40A Section 9A to serve the compelling Town interests of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of the deleterious effect on the character and values of adjacent areas.

## 2. Applicability

- **a.** An area of land may be placed within an Adult Uses Overlay District by vote of at least two-thirds of an annual or special Town Meeting.
- **b.** Individual developments may be subject to Site Plan Review and Off-Street Parking Plan provisions as provided in this By-Law.
- c. A Special Permit issued under this Section shall lapse upon any one of the following occurrences:
  - 1) There is a change in the location of the adult use;
  - 2) There is a sale, transfer or assignment of the business or the license;
  - 3) There is any change in ownership or management of the applicant.

## 3. Establishment of Districts and Relationship to Underlying Districts

**a.** The Adult Uses Overlay Districts are established as districts which overlay the underlying districts, so that any parcel of land lying in an Adult Use Overly District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.

#### 4. Definitions

The following terms shall be specifically applicable to the Adult Uses regulations and shall have the meanings provide below.

**Adult Bookstore:** an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Video Store:** an establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Paraphernalia Store:** an establishment having as a substantial or significant portion of its stock devises, objects, tools, or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Motion Picture Theater:** an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Live Entertainment Establishment:** any establishment which displays live entertainment which is distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

#### 5. Permitted Uses

**a.** All uses permissible and as regulated within the underlying district.

## 6. Special Permit Uses

The following uses shall require a Special Permit from the Zoning Board of Appeals:

Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment

## 7. Special Permit Standards for Adult Uses

No special permit may be granted by the Zoning Board of Appeals for an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment unless the following conditions are satisfied:

### a. Locational Conditions:

No Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment may be located less than 1,000 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, or another Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment. The 1,000 feet distance shall be measured from all property lines of the proposed use.

### **b.** Display Conditions

No signs, graphics, pictures, publications, videotapes, movies, covers, or other implements, items, or advertising, that fall within the definition of Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment merchandise, or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

## c. Applicant Conditions

No special permit shall be issued to any person convicted of violating the provisions of MGL Chapter 119 Section 63 or MGL Chapter 272 Section 28.

**8.** Any special permit granted under this section shall lapse within two years of the date of grant, not including the time required to pursue or await the termination of an appeal referred to in MGL Chapter 40A Section 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

#### 9. Severability

If any section or portion of this bylaw is ruled invalid, such ruling will not affect the validity of the remainder of the bylaw.

## N. GROUNDWATER PROTECTION DISTRICT

# 1. Purpose of District

The purpose of this Groundwater Protection District is to:

- **a.** promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Framingham;
- **b.** preserve and protect existing and potential sources of drinking water supplies;
- c. conserve the natural resources of the town; and
- **d.** prevent temporary and permanent contamination of the environment.

## 2. Scope of Authority

The Groundwater Protection District is an overlay district superimposed on other zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses in a portion of any of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

#### 3. Definitions

For the purposes of this section, the following terms are defined below:

**Aquifer:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**Groundwater Protection District:** The zoning district defined to overlay other zoning districts in the Town of Framingham. The groundwater protection district may include specifically designated recharge areas.

**Hazardous Material:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Framingham. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c. 21C and 21E and 310 CMR 30.00.

**Impervious Surface:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Landfill:** A facility established in accordance with a valid site assignment for the purposes of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

**Low Impact Development (LID):** A stormwater management system that integrates hydrologic controls into a site's design by replicating predevelopment conditions.

**Non-sanitary Wastewater:** Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**Open Dump:** A facility that is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or the regulations and criteria for solid waste disposal.

Potential Drinking Water Sources: Areas that could provide significant potable water in the future.

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include areas designated by Department of Environmental Protection (DEP) as Zone II, Zone II, or Zone III.

**Septage:** The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

**Sludge:** The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil, which are removed at the headworks of a facility.

**Treatment Works:** Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**Very Small Quantity Generator:** Any public or private entity, other than residential, that produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**Waste Oil Retention Facility:** A waste oil collection facility for automobile service stations, retail outlets, and marinas that is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c. 21. s. 52A.

### 4. Establishment and Delineation of Groundwater Protection District

For the purposes of this district, there are hereby established within the Town of Framingham certain groundwater protection areas, consisting of aquifers or recharge areas that are delineated on a map. This map is entitled Groundwater Protection District Map, Town of Framingham. This map is hereby made a part of the Town of Framingham Zoning By-Law and is on file in the Office of the Town Clerk.

## 5. District Boundary Disputes

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Planning Board. Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the district boundary with respect to their parcel(s) of land is uncertain. At the request of the owner(s), the Town of Framingham may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

## 6. Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- i. conservation of soil, water, plants, and wildlife;
- ii. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- iii. foot, bicycle and/or horse paths, and bridges;
- iv. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- v. maintenance, repair, and enlargement of any existing structure, subject to Section 7 and Section 9 of this bylaw;
- vi. residential and commercial development, subject to Section 7, Section 8, and Section 9 of this bylaw;
- vii. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 7 and Section 9 of this bylaw; and

**viii.** construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

# 7. Uses Permitted by Administrative Approval

The following uses shall not require a special permit pursuant to Section 9 herein and are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained, and further provided that the use has been approved by the Department of Public Works (DPW) Director or designee after review of plans and documentation deemed appropriate by the DPW Director.

i. Existing lots, either occupied, or proposed to be occupied, by single or two family residences and not subject to subdivision review provided that recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to maintain pre-development stormwater patterns and water quality to the maximum extent practicable.

#### 8. Prohibited Uses

The following uses are prohibited within the Groundwater Protection District:

- i. landfills and open dumps as defined in 310 CMR 19.006;
- ii. automobile graveyards and junkyards, as defined in M.G.L. c. 140B, §1;
- iii. landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to M.G.L.c. 21, §26 through §53; M.G.L.c. 111, §17; M.G.L.c. 83, §6 and §7, and regulations promulgated thereunder;
- iv. facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L.c. 21C and 310 CMR 30.00, except for:
  - a) very small quantity generators as defined under 310 CMR 30.000;
  - **b**) household hazardous waste centers and events under 310 CMR 30.390;
  - c) waste oil retention facilities required by M.G.L. c. 21, §52A;
  - **d**) water remediation treatment works approved by the DEP for the treatment of contaminated ground or surface waters;
- v. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- vi. storage of liquid hazardous materials, as defined in M.G.L.c. 21E, and/or liquid petroleum products unless such storage is:
  - a) above ground level, and;
  - b) on an impervious surface, and
  - c) either
    - (i) in container(s) or above ground tank(s) within a building, or;
    - (ii) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;
- vii. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- viii. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- ix. storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- x. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, swimming pools, roads, or utility works:
- xi. discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:

- a) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
- **b**) treatment works approved by the Department of Environmental Protection and designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and **c**) publicly owned treatment works;
- xii. stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district; and
- **xiii.** storage of commercial fertilizers, as defined in M.G.L. Chapter 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

## 9. Uses and Activities Requiring a Special Permit

The following uses and activities are permitted only upon the issuance of a Special Permit by the Planning Board under such conditions as they may require:

- i. enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
- ii. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 8). Such activities shall require a special permit to prevent contamination of groundwater;
- iii. any use, other than those permitted by administrative approval pursuant to Section 7 herein, in which more than 15% or 2,500 square feet of the lot coverage, whichever is greater, is rendered impervious. In such instances, a system for groundwater recharge must be provided that does not degrade groundwater quality. A stormwater management plan shall be developed that provides for the artificial recharge of precipitation to groundwater through site design incorporating natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (detention) ponds, water quality swales, sand filters, organic filters or similar site appropriate best management practices capable of removing nitrogen and other contaminants from stormwater and meeting the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, Volumes 1 and 2, dated March 1997 or latest edition thereof, for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, and other surface water bodies, wetlands or vernal pools. Dry wells shall be prohibited.

Except when used for roof runoff from non galvanized roofs, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or other best management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities. All such artificial recharge systems shall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the permitting authority to ensure that systems function as designed.

## 10. Procedures for Issuance of Special Permit

- A. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the Planning Board determines, in conjunction with the Board of Health, the Conservation Commission, and Department of Public Works, that the intent of this bylaw, as well as its specific criteria, are met. The Planning Board shall not grant a special permit under this section unless the petitioner's application materials include, in the Planning Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The Planning Board shall document the basis for any departures from the recommendations of the other Town of Framingham boards or agencies in its decision.
- B. Upon receipt of the special permit application, the Planning Board shall transmit one copy to the Board of Health, the Conservation Commission, and Department of Public Works for their written recommendations. Failure to respond in writing within 35 days of receipt from the Planning Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
- C. The Planning Board may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 9 of this bylaw, and any regulations or guidelines adopted by the Planning Board. The proposed use must:

- 1. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and
- 2. be designed to minimize disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- D. The Planning Board may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town of Framingham.
- E. The applicant shall file 15 copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Planning Board and be stamped by a professional engineer registered in the Commonwealth of Massachusetts. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
  - 1. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
  - 2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
    - a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
    - b. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
    - c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection:
    - d. proposed down-gradient location(s) for groundwater monitoring well(s), should the Planning Board deem the activity a potential groundwater threat.
- F. The Planning Board shall hold a hearing, in conformity with the provision of MGL Chapter 40A, § 9, within 65 days after the filing of the application and after the review by the Town of Framingham Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, §11. The decision of the Planning Board and any extension, modification, or renewal thereof shall be filed with the Planning Board and Town Clerk within 90 days following the close of the public hearing. Failure of the Planning Board to act within 90 days of the close of the public hearing shall be deemed as a granting of the permit.

#### 11. Enforcement

A. Written notice of any violations of this bylaw shall be given by the Building Commissioner (Zoning Enforcement Officer) to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

A copy of such notice shall be submitted to the Board of Health, Conservation Commission and Public Works, and Water Department. The cost of containment, clean-up, or other action of compliance shall be borne jointly and severally by the owner and/or operator of the premises.

## 12. Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof to the greatest extent permitted by law, nor shall it invalidate any special permit previously issued thereunder.